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In re:	)	
	)	
Sultan Chemists, Inc.	)	FIFRA Appeal No. 99-7
	)	
Docket No. FIFRA-95-H-05.	)	
	)	
	)	

By motion dated September 30, 2002, Sultan Chemists, Inc. (“Sultan”) requests that the August 4, 1999 Order of Administrative Law Judge Charles Bullock (“ALJ”)<sup>1</sup> be amended to allow Sultan to pay the \$175,000 civil penalty assessed against it for 89 violations of section 12 of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), 7 U.S.C. § 136j, over a specified period of time, rather than in one payment.<sup>2</sup>

Sultan represents that its financial condition is such that it would have to discharge a

<sup>2</sup> On September 13, 2000, the Environmental Appeals Board (“EAB” or the “Board”) affirmed the ALJ’s Order, and ordered Sultan to pay the \$175,000 civil penalty within thirty days of the filing of the Board’s Final Decision. *See In re Sultan Chemists, Inc.*, FIFRA Appeal No. 99-7 (EAB, Sept. 13, 2000), 9 E.A.D. \_\_\_\_\_. Sultan appealed the Board’s Final Decision to the U.S. Court of Appeals for the Third Circuit, which issued a decision denying Sultan’s appeal, accepting the EAB’s position on all issues, and upholding the \$175,000 civil penalty. *See Sultan Chemists, Inc., v. U.S. Env’tl. Protection Agency*, 281 F.3d 73 (3d Cir. 2002).

number of its employees or close its business in order to pay the civil penalty in one lump sum. *See* Affidavit of Paul Seid in Support of Motion Seeking to Amend Order (Sep. 20, 2002). Specifically, Sultan proposes to pay \$15,000 up front, and to pay the remaining \$160,000 in 23 equal monthly installments. *See* Letter from Robins to Walker of 6/21/02, at 1. In response to Sultan's motion to amend the payment schedule, the Office of Enforcement and Compliance Assurance, Office of Regulatory Enforcement, Toxics and Pesticides Enforcement Division, filed a motion in which it states that it does not oppose Sultan's motion. *See* Motion in Response to Respondent's Motion to Amend Order (Oct. 11, 2002).<sup>3</sup>

Accordingly, Sultan's motion is hereby granted. Sultan shall make a payment of \$15,000 within thirty (30) days after the filing of this Order. Sultan shall pay the remaining \$160,000 in 23 equal monthly installments of \$6,956.52, to be paid on the first of each month starting on January 1, 2003. Payment shall be made by forwarding a certified or cashier's check payable to the Treasurer, United States of America, at the following address:

Bessie L. Hammiel  
EPA - Washington D.C.  
Hearing Clerk  
P.O. Box 360277  
Pittsburgh, PA 15251-6277

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<sup>3</sup>The Office of Enforcement and Compliance Assurance, Office of Regulatory Enforcement, Toxics and Pesticides Enforcement Division acknowledges that a lengthy proposed payment schedule may possibly burden the resources of the Agency to monitor Sultan's compliance with the schedule. *See* Motion in Response to Respondent's Motion to Amend Order (Oct. 11, 2002).

So ordered.<sup>4</sup>

ENVIRONMENTAL APPEALS BOARD

Dated: 11/05/02

By: \_\_\_\_\_/s/\_\_\_\_\_  
Ronald L. McCallum  
Environmental Appeals Judge

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<sup>4</sup>The three-member panel deciding this matter is comprised of Environmental Appeals Judges Scott C. Fulton, Ronald L. McCallum, and Edward E. Reich. *See* 40 C.F.R. § 1.25(e)(1) (2002).

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Granting Motion to Amend Civil Penalty Payment Schedule in the matter of Sultan Chemists, Inc., FIFRA Appeal No. 99-7, were sent to the following persons in the manner indicated:

Certified Mail

Return Receipt Requested:

Claude Walker, Esq.  
Toxics & Pesticides Enforcement Division  
Office of Regulatory Enforcement  
U.S. Environmental Protection Agency  
Ariel Rios (MC - 2245A)  
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Hon. Charles E. Bullock  
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Bessie L. Hammel  
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U.S. Environmental Protection Agency  
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Washington, DC 20460

Dated: 11/05/02

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/s/  
Annette Duncan  
Secretary